

STATE OF MICHIGAN
COURT OF APPEALS

JUDY HOTCHKISS,

Plaintiff-Appellant,

v

CLAY TOWNSHIP BOARD, CLAY TOWNSHIP
CHIEF ASSESSOR, and CLAY TOWNSHIP
PLANNING COMMISSION,

Defendants-Appellees.

UNPUBLISHED

March 13, 2012

No. 302981

St. Clair Circuit Court

LC No. 09-003298-CZ

Before: O'CONNELL, P.J., and SAWYER and TALBOT, JJ.

MEMORANDUM.

Judy Hotchkiss appeals as of right the trial court's order granting Clay Township Board, Clay Township Chief Assessor, and Clay Township Planning Commission's ("Clay Township Entities") motion for summary disposition, finding that Hotchkiss's claim against the Clay Township Entities was barred by res judicata. We affirm.

It appears that Hotchkiss's dispute with the Clay Township Entities, which are all municipal entities, stems from a property dispute concerning a strip of public waterfront property abutting Hotchkiss's property on Harsens Island. Apparently, Hotchkiss was ordered to vacate this strip of land. Permits to build fences, docks, and a marina for the benefit of the public were given to third parties. Hotchkiss acknowledges that she unsuccessfully attempted to vindicate her rights in these prior cases: (1) *Hotchkiss v Dep't of the Army Corps of Engineers*,¹ (2) *Clay Twp v Hotchkiss*,² and (3) *Hotchkiss v Bd of Rd Comm'rs for St Clair Co.*³ In all of the prior litigation, Hotchkiss's underlying issue was a challenge to the jurisdiction and authority of the

¹ *Hotchkiss v Dep't of the Army Corps of Engineers*, unpublished order of the United States District Court, entered September 20, 2001 (No. 01-72113, ED Mich).

² *Clay Twp v Hotchkiss*, unpublished opinion per curiam of the Court of Appeals, issued July 3, 2003 (Docket No. 236688).

³ *Hotchkiss v Bd of Rd Comm'rs for St Clair Co.*, unpublished order of the St Clair Circuit Court, entered January 30, 2004 (Case No. D-03-000934-CZ).

township to regulate her property. Hotchkiss admitted during the motion hearing and in her brief on appeal that she is presenting the same arguments that she raised in the prior cases, as she claims that the Clay Township Entities lack authority to regulate property on Harsens Island. Those three prior decisions were final decisions on the merits, since they were all adjudicated by means of summary disposition.⁴ Moreover, Hotchkiss does not refute the trial court's finding that the Clay Township Entities are in privity with the defendants in the prior claims, and it does appear that the Clay Township Entities, all municipal entities within Clay Township, all share the same interest in imposing reasonable regulations over property residing in the township.

It is clear to us, as it was to the trial court, that this matter is barred by the doctrine of res judicata.⁵

Affirmed.

/s/ Peter D. O'Connell

/s/ David H. Sawyer

/s/ Michael J. Talbot

⁴ *The Mable Cleary Trust v The Edward-Marlah Muzyl Trust*, 262 Mich App 485, 510; 686 NW2d 770 (2004).

⁵ *Ditmore v Michalik*, 244 Mich App 569, 577; 625 NW2d 462 (2001).